

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 15, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 472, HB 612, 3/2/2001
Executive Action: HB 63, HB 472, SR 16

HEARING ON HB 472

Sponsor: REP. ALLEN ROME, HD 56, Garrison

Proponents: Tom Bilodeau, MEA-MFT
Marwan Saba, Montana Federation of State Prison
Employees

Opponents: Kelly Jenkins, General Council Public Employee Retirement Board

Opening Statement by Sponsor:

REP. ALLEN ROME, HD 56, Garrison, to the committee this bill proposed to re-open, for a brief time, an opportunity for correctional officers to transfer their pension membership from the PERS to the game wardens and peace officers retirement plan. He added that the people involved were not informed well enough when the window was offered resulting in confusion.

Proponents' Testimony:

Tom Bilodeau, MEA-MFT, stated this was a fairness bill. He told the committee it became apparent that many employees at the prison had not known what was required to transfer to the other plan. Therefore, many of them did not make an election during the window period. **Mr. Bilodeau** said this bill would allow a second election opportunity to join in the game wardens and peace officers system. He stated there was a small fiscal note to come out of the prison correction system budget. **Mr. Bilodeau** said this would encourage staff working side by side to be covered by the same pension plan.

Marwan Saba, Montana Federation of State Prison Employees, supported this legislation.

Opponents' Testimony:

Kelly Jenkins, General Council Public Employee Retirement Board, EXHIBIT(sts59a01) stressed to the committee when employees were given elections to join a new retirement plan, they're told they'll have only one opportunity to join the plan. He stated legislation that allowed an employee to change a voluntary decision was poor policy. His department wanted to send a message to the people that they only had one chance to join.

Questions from Committee Members and Responses:

SEN. JIM ELLIOTT asked **Kelly Jenkins** if 18 people would use this bill. **Mr. Jenkins** answered that was correct.

SEN. ELLIOTT asked **Kelly Jenkins** what he based the 18 people on. **Mr. Jenkins** replied it was based partially on historical data and partially on practical circumstances.

SEN. ELLIOTT asked **Kelly Jenkins** if there were 75 eligible members for this bill. **Mr. Jenkins** replied that was correct.

SEN. PETE EKEGREN expressed concern about the stair-stepping in the retirement systems and asked **Tom Bilodeau** if he was concerned about this also. **Mr. Bilodeau** replied, since 1997, all new hires were clearly placed within the game wardens and peace officers pension program because of a determination made that would be the best program for those individuals to be in. He added that decision was made on good pension practice. **Mr. Bilodeau** told the committee his organization did not look at this as a stair-step situation. He said this would afford those individuals an opportunity to make a choice between the two systems. **Mr. Bilodeau** stated these people would be paying for the program, with the money coming out of their own pockets. He added that was why they expected only 18 people to make the change.

SEN. EKEGREN asked **Tom Bilodeau** if they would be coming to the legislature again next session due to a gap of people between those 18 people and the remaining number of members. **Mr. Bilodeau** assured **SEN. EKEGREN** that was unlikely to occur because there was not likely to be another offer made.

SEN. EKEGREN asked **Tom Bilodeau** why this didn't happen four years ago. **Tom Bilodeau** replied much of this information was distributed on a table in the staffing room with a discussion held during the regular work-day which prevented many people from attending. He added this was a problem that needed to be addressed.

SEN. EKEGREN asked **Tom Bilodeau** if there needed to be some consolidation in the retirement plans. **Mr. Bilodeau** answered that had been acknowledged by the interim retirement committee and progress had been made in that area. He told the committee it would be difficult to roll all the plans into one because of the requirement to offer certain benefits to the various groups and also recognizing the different work forces.

SEN. EVE FRANKLIN asked **Marwan Saba** how the information had been distributed to the prison employees. **Mr. Saba** responded that a piece of paper containing the information had been given to the personnel office. The personnel office proceeded to make copies of the information and placed the copies in the break room. **Mr. Saba** explained that a person had appeared to explain the information, but nobody had been notified the person was coming, and therefore, most of them didn't realize the person was there.

SEN. KEN TOOLE asked **Marwan Saba** how many people would move if this changed. **Mr. Saba** said he did not have exact numbers. He added they had talked to PERS about this situation a year ago and were ignored by them, so they hired a lawyer to represent them.

SEN. TOOLE asked **Marwan Saba** if he agreed that 18 people would be interest in this plan. **Mr. Saba** stated they wanted to have the option again to join the system because the information had been misleading and confusing.

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SEN. BOHLINGER asked **Marwan Saba** what cost he was faced with when this option was given. **Mr. Saba** told the committee it was mandatory for him to join and he didn't have the option. He added that the employees he knew that chose to join that system had to take out loans to buy-in to the program.

SEN. ELLIOTT asked **Kelly Jenkins** if he could provide some spreadsheet information showing a few examples of costs, purchase time and members. **Kelly Jenkins** agreed he would provide that information.

SEN. DON HARGROVE asked **Kelly Jenkins** why only the prison officials were left out, appearing that something had fallen through the cracks in the system. **Mr. Jenkins** replied he did not want to lay blame on anyone.

SEN. HARGROVE asked **Kelly Jenkins** if this bill would close the door for this group of people. **Mr. Jenkins** answered this would probably not occur again with this group of people.

SEN. BUTCHER asked **Kelly Jenkins** about the group having three options during the window previously. **Mr. Jenkins** answered this bill still provided the group with the three options. He added that without this bill, the window was already closed.

SEN. BUTCHER asked **Kelly Jenkins** if this would have any impact on any individual or general funds. **Mr. Jenkins** answered that the cost would be the responsibility of the individual at this point.

SEN. BUTCHER asked **Kelly Jenkins** how this would impact the game wardens plan. **Mr. Jenkins** replied that the age issue was not a substantial concern of the PER board.

Closing by Sponsor:

REP. ALLEN ROME, HD 56, told the committee he had talked to many prison employees. He said between 15-18 employees would make this change. He added it was important for those individuals to be on the same level as their co-workers.

HEARING ON HB 612

Sponsor: **REP. ROY BROWN, HD 14, Billings**

Proponents: **Robert Throssell, Montana Association of Clerk and
Recorders
Duane Winslow, Election Administrator Yellowstone
County
Janice Doggett, Secretary of State's Office**

Opponents: **Mike Fellows, Montana Libertarian Party**

Opening Statement by Sponsor:

REP. ROY BROWN, HD 14, Billings, said this bill revised election laws. **REP. BROWN** told the committee this bill was requested by the Clerks and County Recorders because of a problem with having two reform party candidates at the primaries, with current law stating that the party must have a party ballot printed if the party had a candidate in a contested legislative race. He added the problem resulted in a great expense for other counties that didn't have any reform party candidates still being required to print the ballots. **REP. BROWN** stated this bill required a ballot to be printed for the party if the party had candidates in at least half of the races. He added this bill would require people to put their addresses on initiatives to make it easier for the signatures to be verified.

Proponents' Testimony:

Robert Throssell, Montana Association of Clerk and Recorders, told the committee this was a joint bill with the Clerks and County Recorders and the Secretary of State's Office. He said if a party had received 5% of the vote for any state-wide office, they were entitled for consideration of a primary ballot. Existing law stated that there must be a contested primary race in order to have the ballots printed. **Mr. Throssell** said this was important because under our primary system, there were separate ballots printed for each party which ran into a large cost, particularly when a party did not have any candidates filing for office or a contested case. **Mr. Throssell** told the

committee as a result of the current statute, Lincoln county, for example, had to print ballots even though they didn't have a reform candidate. The current statute has resulted in many counties being required to print blank ballots at quite an expense. **Mr. Throssell** stated this bill would not affect the right of people to run on a third party ticket. If they filed and sought nomination and they were the only person for that nomination, they would automatically move to the general election.

Duane Winslow, Election Administrator Yellowstone County, stated this bill benefitted many people and harmed no one. He told the committee that Yellowstone County had to spend \$20,000 to print 85,000 ballots for the reform party ballots. **Mr. Winslow** said this bill still allowed for third parties to still have ballot access. He added that if the third party had a contested office, they would still print the ballots. He stated this bill contained clean-up language to improve the election process.

Janice Doggett, Secretary of State's Office, told the committee that the time changes included in the bill: (1) give more time to certify petitions and (2) coordinates the time frame for petitions. She said the bill also required a residence address on ballot issues. She said this bill clarified a single notice would be sent out for ballots.

Opponents' Testimony:

Mike Fellows, Montana Libertarian Party, EXHIBIT (sts59a02) opposed this bill.

Questions from Committee Members and Responses:

SEN. TOOLE asked **Robert Throssell** if the address required was the residential or the mailing address. **Mr. Throssell** answered it was the residential address.

SEN. TOOLE asked **Robert Throssell** if the address section could be left blank when gathering signatures. **Mr. Throssell** replied the person signing the petition was supposed to supply the address as a sign of intent.

SEN. TOOLE asked **Robert Throssell** how the petition gatherers would deal with the addresses if it was not the residential address.

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SEN. TOOLE asked **Robert Throssell** if there was a reason to do mailing address instead of residential address. **Mr. Throssell**

answered that the reason the residential addresses needed to be used was for the verification of the signatures. He said it needed to be determined where the person was located for filing purposes.

SEN. TOOLE asked **Robert Throssell** if the clerk and recorders go to the voter files to verify the addresses. **Mr. Throssell** replied that was correct.

SEN. TOOLE told **Robert Throssell** both the mailing and residential address could be found in the voter file. **Mr. Throssell** answered yes.

SEN. TOOLE asked **Robert Throssell** if, in the current system, someone could run for a party and lose; then, turn around and run for another party in the general election. **Mr. Throssell** replied it would be very difficult to do that.

SEN. TOOLE asked **Robert Throssell** if this would affect someone moving automatically through the primary on a third party through the current system. **Mr. Throssell** responded it would not affect that situation.

SEN. BOHLINGER told **Duane Winslow** he did not realize the significant cost of \$20,000 to prepare the ballots for third parties. **SEN. BOHLINGER** asked **Duane Winslow** how many parties usually put candidates forward. **Mr. Winslow** replied usually just the reform party for the primary. He added there were several parties for the general election; they would still be on the general election ballot, but would not be required to print the ballots for the counties that did not have contested races.

SEN. BOHLINGER asked **Duane Winslow** if smaller party candidates would still have the opportunity to appear in the general elections and for contested parties. **Mr. Winslow** answered they would still have that opportunity. He stated this bill would put more control at the local level.

SEN. BUTCHER asked **Robert Throssell** if there would be a problem if a person registered after being gone for many years. **SEN. BUTCHER** asked if that person would be kicked out of the process if the current address was different. **Mr. Throssell** answered the person's registration was not invalidated because of the address changing, even if that person was in a different precinct.

SEN. BUTCHER asked **Robert Throssell** if he would support an amendment stating that the voter's signature could not be struck because their physical address was different than the card. **Robert**

Throssell replied that he would not support that because an amendment like that would open it up to problems.

SEN. TOOLE asked **Robert Throssell** if the reason for the residential address was to help verify, not qualify. **Mr. Throssell** reassured the committee the signature was required for verification purposes plus to make sure the person was in the right district when counting petition signatures.

SEN. TOOLE asked **Robert Throssell** if they already had the voter's location by the verification process of registration. **Robert Throssell** stated that they would go hand in hand in working together. It would also help to ensure that the voters signature was counted in the right district for the petition.

SEN. TOOLE asked **Robert Throssell** if it should be known as soon as the registrant was verified which district they belong in. He questioned if that element was important to include on the form.

SEN. TOOLE expressed there was a difference between using the information to verify and using the information to qualify. **Mr. Throssell** explained there were two verifications needed: (1) verify that the person was the registered voter, and (2) verify what precinct the person was located in.

SEN. TOOLE asked **Robert Throssell** if space on the ballot would be a practical and mechanical problem when gathering signatures in a rural area for including physical addresses. **Robert Throssell** responded that contracting or expanding space on the form could be adjusted for rural areas.

SEN. TOOLE asked **Robert Throssell** if this would "not necessarily" keep their signature from counting. **Mr. Throssell** responded it could not. He added it could cause the officials to look further for verification purposes.

SEN. TOOLE asked **Robert Throssell** if it would be illegal to disqualify the voter for the reason of the physical address changes. **Robert Throssell** answered that was correct.

SEN. TOOLE asked **Janice Doggett** if it would be a problem for the Secretary of State's Office if there was an amendment to include post office box address, residential address or telephone number instead of saying the requirement of residence. **Ms. Doggett EXHIBIT(sts59a03)** explained that amendment would not be necessary because of opinions of the Attorney General concerning elections.

SEN. TOOLE asked **Duane Winslow** if confusion and a burden was being created by requiring a physical description of residency. **Mr.**

Winslow replied the phone numbers change too frequently to be a good determining factor.

SEN. TOOLE told **Duane Winslow** he was concerned about setting up burdens for petition gatherers. **Duane Winslow** replied he had not seen that happen.

SEN. BOHLINGER asked **Janice Doggett** why the Secretary of State's Office wanted to extend the deadline by just one day. **Ms. Doggett** responded because of problems associated with reaching the 5:00 p.m. deadline. Adding one more day would allow a little more time to gather the information needed and get it sent to the Secretary of State's Office.

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SEN. BUTCHER told **Elaine Gravely** he was concerned about addresses on reservations. **Elaine Gravely** replied that 100% of the state had 911 addresses now, but not all areas had activated the 911 system yet.

SEN. HARGROVE asked **REP. BROWN** what was the reason for the residence address instead of the post office box. **REP. BROWN** answered because it was easier to verify location by residential addresses than post office boxes.

Closing by Sponsor:

REP. ROY BROWN, HD 14, told the committee this was a good government bill, saving the clerks and county recorders money. He added this would make initiatives easier.

EXECUTIVE ACTION ON HB 63

SEN. HARGROVE told the committee there was an amendment for this bill concerning constitutionality which was not prepared yet.

SEN. BUTCHER stated he wanted an amendment for verification purposes included in the bill.

SEN. TOOLE requested an amendment including permissive mailing address, post office box and telephone number to be included.

EXECUTIVE ACTION ON HB 472

Motion/Vote: SEN. EKEGREN moved that **AMENDMENT HB0047201.ADN EXHIBIT (sts59a04) BE ADOPTED. Motion carried unanimously.**

Motion/Vote: SEN. EKEGREN moved that **HB 472 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SR 16

Motion: SEN. FRANKLIN moved that **SR 16 BE ADOPTED.**

Discussion:

SEN. EKEGREN told the committee he had given this appointment a lot of thought and felt **Patty Myers** would be confirmed. He stated he would vote no on the confirmation because there was so much concern expressed by so many people and those people needed a voice. SEN. EKEGREN said this was not **Governor Martz's** appointee, but rather she was **Governor Racicot's** appointee. He told the committee he felt she was a wonderful person and good teacher.

SEN. BUTCHER stated he agreed with SEN. EKEGREN in that **Patty Myers** was a great person. He said he looked at the mess in education and had serious concerns about nationalizing everything. SEN. BUTCHER stated he was not satisfied with **Ms. Myers'** answers. He said the problems in education would not be solved unless someone re-directed the system. SEN. BUTCHER added mandates were not the answer to solve the problems in schools. He felt that **Ms. Myers** would not make the necessary changes and wanted to give **Governor Martz** the opportunity to make her own choice for the appointee for the Board of Public Education.

SEN. TOOLE told the committee as the United States educational system was being criticized, we needed to remember that it was one of the best educational systems in the world and one of the only ones in the world that had attempted to include the disenfranchised. He said that concerning the large volume of mail received about **Patty Myers's** appointment, the committee needed to remember that a person does not always have to do something wrong to be accused of something.

SEN. FRANKLIN stated she received organized mail and felt a group had targeted **Patty Myers**. She added that **Ms. Myers** was qualified for the job, energetic, and was not partisan.

SEN. EKEGREN told the committee would not agree that all the mail came from an extremist group because he knew of several legitimate people who liked **Ms. Myers** personally, but opposed her appointment to the Board of Public Education.

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SEN. HARGROVE said he would support **Patty Myers'** appointment because those organized efforts irritated him and she seemed to be qualified for the job.

Motion/Vote: **SEN. FRANKLIN** moved that **SR 16 BE ADOPTED. Motion carried 5-2 with Butcher and Ekegren voting no.**

ADJOURNMENT

Adjournment: 12:00 A.M.

SEN. DON HARGROVE, Chairman

LYNETTE BROWN, Secretary

DH/LB

EXHIBIT (sts59aad)